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15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN FRANCISCO DIVISION**
18

19 DAVID M. CATHCART, JAMES H.
WHITEHEAD, ROBERT W. DECKER, DALE
20 BALDISSERI, individually, and on behalf of all
others similarly situated,

21 Plaintiff,

22 v.

23 SARA LEE CORPORATION, SARA LEE
24 BAKERY GROUP, EARTHGRAINS BAKING
COMPANIES, INC. (formerly sued as DOE 1)
25 and DOES 2 through 20,

26 Defendants.
27
28

Case No. CV 09-5748 MMC

**STIPULATION FOR LEAVE TO
MODIFY THE SCHEDULING ORDER
TO EXTEND MOTION AND
DISCOVERY DATES**

~~PROPOSED~~ ORDER

The Honorable Maxine M. Chesney

Complaint filed: December 8, 2009

1 The parties stipulate as set forth in the numbered paragraphs below, based on the
2 following facts:

3 The Scheduling Order (Dkt. No. 33) set original deadlines in this matter. The case
4 deadlines have previously been continued by stipulated order on October 7, 2010 (Docket 35)
5 and November 12, 2010 (Dkt. No. 44). The current deadlines are as follows:

6 A. Close of discovery on Labor Code § 514 and Motor Carrier Act exemptions: March 1,
7 2011;

8 B. Deadline for filing of Defendants' motion(s) for summary judgment on Labor Code §
9 514 and Motor Carrier Act exemptions: March 18, 2011;

10 C. Deadline for filing Plaintiffs' opposition to above motion(s) and cross-motion: April
11 8, 2011;

12 D. Deadline for reply on Defendants' motion(s) and opposition to cross-motion: April
13 15, 2011;

14 E. Hearing on above motion(s): May 6, 2011, 9:00 a.m.;

15 F. Deadline for Plaintiffs to file motion for class certification: August 12, 2011;

16 G. Deadline for Defendants to file opposition to motion for class certification:
17 September 30, 2011;

18 H. Deadline for Plaintiffs to file reply on motion for class certification: November 18,
19 2011;

20 I. Hearing on motion for class certification: December 9, 2011, 9:00 a.m.

21 J. Case Management Conference: January 20, 2012.

22 The parties have continued to pursue discovery, including meeting and conferring on
23 additional document production by Defendants, as recently as the week of this stipulation.

24 Following entry of the parties' stipulated Protective Order on November 3, 2010,
25 Defendants began to produce documents in response to Plaintiffs' discovery requests, and are
26 currently in the process of completing that production.

27 The discovery referred to above is, to a large extent, directed at the issues to be addressed
28 on the motion or motions for motion for summary judgment, i.e. Labor Code § 514 and the

1 Motor Carrier Act exemption, as well as discovery related to Plaintiffs' meal period claims.
2 Defendants require additional time to complete their document production on these issues.

3 The parties have scheduled depositions on these issues, including the depositions of the
4 named Plaintiffs and of Defendants under Federal Rule of Civil Procedure 30(b)(6). Plaintiffs
5 have requested additional time before the depositions of Plaintiffs begin, so that the depositions
6 do not begin until Defendants complete their document production and Plaintiffs have had time
7 before their depositions to review the documents produced by Defendants, and Defendants are in
8 accord on additional time. Plaintiffs have also filed a motion (Dkt. No. 48) which, in part,
9 requests an extension of the discovery cut-off to June 1, 2011. Defendants do not object to such
10 an extension provided additional dates also are extended, which Plaintiffs also agree to.

11 In view of the additional time needed for discovery on those issues, it is appropriate that
12 Defendants' deadline to file its motion(s) for summary judgment on those issues should be
13 extended, as should the other deadlines in connection with the motion(s).

14 Further, to allow efficient and orderly management of the case, the parties believe there
15 should be sufficient time for additional discovery between any decision on the motion(s) for
16 summary judgment and Plaintiffs' motion for class certification, in large part because the
17 decision on summary judgment could greatly affect the scope of any motion for class
18 certification. Thus, the deadlines regarding the motion for class certification should be extended
19 to allow the parties to conduct any necessary further discovery on certification issues, following
20 a decision on the motion(s) for summary judgment.

21 The parties presently believe extension of these deadlines and hearing dates as listed
22 below is necessary and appropriate and will not prejudice either party.

23 WHEREFORE, THE PARTIES STIPULATE and request that the Court order that the
24 Scheduling Order (Docket Non. 33) be modified to reflect the deadlines listed below, or to set
25 forth dates chosen by the Court:

- 26 1. Close of discovery on Labor Code § 514 and Motor Carrier Act exemptions: June 1,
27 2011;
- 28 2. Deadline for filing of Defendants' motion(s) for summary judgment on Labor Code §

1 514 and Motor Carrier Act exemptions: June 17, 2011;

2 3. Deadline for filing Plaintiffs' opposition to above motion(s) and cross-motion: July 8,
3 2011;

4 4. Deadline for reply on Defendants' motion(s) and opposition to cross-motion: July 15,
5 2011;

6 5. Hearing on above motion(s): August 5, 2011, 9:00 a.m.;

7 6. Deadline for Plaintiffs to file motion for class certification: November 18, 2011;

8 7. Deadline for Defendants to file opposition to motion for class certification: January 6,
9 2012;

10 8. Deadline for Plaintiffs to file reply on motion for class certification: February 24,
11 2012;

12 9. Hearing on motion for class certification: March 16, 2012, 9:00 a.m.;

13 10. Case Management Conference: April 27, 2012.

14 SO STIPULATED.

15 In compliance with General Order No. 45 (X), as filing party, Defendants attest that all
16 signatories below concur in the filing of this document.

17 DATED: February 14, 2011

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KRISTEN ROWSE

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21 BAKERY GROUP and EARTHGRAINS
22 BAKING COMPANIES, INC.
23

24 DATED: February 14, 2011

SPIRO MOSS LLP


25
26
27 By: /s/ Ira Spiro
Ira Spiro
Attorneys for Plaintiffs
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~~PROPOSED~~ ORDER

SO ORDERED as stated in paragraphs 1 through 10 above.

Further, plaintiffs' Motion for Order to Control Scheduling is hereby DENIED as moot.

DATED: February 22, 2011


MAXINE M. CHESNEY
United States District Judge